

**TOWN OF QUALICUM BEACH  
BYLAW NO. 706**

**NOISE CONTROL**

**WHEREAS** under its statutory powers, including sections 8(3)(b) & (h), 16, 17, 62, 64, 260 to 263 of the *Community Charter*, the Council of the Town of Qualicum Beach may regulate, prohibit and impose requirements in relation to nuisances, disturbances and other objectionable situations in order to protect and enhance the wellbeing of the community;

**AND WHEREAS** the Council of the Town of Qualicum Beach may exercise that authority in relation to noise or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;

**AND WHEREAS** the Council of the Town of Qualicum Beach considers it expedient to regulate, prohibit and impose requirements in relation to the making of noise within its boundaries;

**NOW, THEREFORE**, the Council of the Town of Qualicum Beach, in open meeting assembled, enacts as follows:

**1. TITLE**

This Bylaw may be cited for all purposes as "Town of Qualicum Beach Noise Control Bylaw No. 706, 2016"

**2. DEFINITIONS**

**In this Bylaw,**

**"Approved Sound Meter"** means an instrument calibrated to measure levels of sound pressure in accordance with the minimum specifications for type 2 general purpose sound level meters set out under ANSI S1.4 or IEC 61672, as amended from time to time;

**"Authorized Persons"** means the Chief Administrative Officer, Deputy Chief Administrative Officer, and Director of Planning, or their delegates;

**"Bylaw Enforcement Officer"** shall mean any person appointed to enforce and administer this Bylaw and includes a member of the Royal Canadian Mounted Police;

**"Construction"** includes the erection, alteration, repair, relocation, dismantling, demolition, removal, structural maintenance, painting, power washing, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit (whether above or below ground level), street and highway building, concreting, equipment, installation and alteration, and the structural installation of construction components

and materials in any form or for any purpose, the installation or removal of Construction Equipment, and any other work done in connection therewith;

***“Construction Equipment”*** means any equipment or device designed and intended for use in Construction or the handling of materials, including air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

***“Continuous Sound”*** means any noise or noises, other than Construction noise or noise created by the use of Power Equipment, continuing for a period, or periods, totalling 3 minutes or more in any 15-minute period;

***“Council”*** means the Council for the Town of Qualicum Beach;

***“Emergency Vehicle”*** means an emergency vehicle as defined in the *Motor Vehicle Act*, R.S.B.C. 1996;

***“General Holiday”*** means New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, and any other day declared or proclaimed as a holiday by the Federal government, Provincial government, or the Town of Qualicum Beach;

***“General Maintenance”*** means the use of Power Equipment for the maintenance and care of lawns, gardens, bushes, shrubs, trees or other vegetation;

***“Highway”*** includes every highway within the meaning of the *Transportation Act*, S.B.C. 2004, Chapter 44, and every road, street, lane, thoroughfare, bridge, public way, or right of way designed or intended for, or used by, the general public for the passage of vehicles, and every place or passageway to which the public, for the purpose of parking or servicing of vehicles, has access or is invited; and every place or passageway owned by the Town of Qualicum Beach for the purpose of providing off-street parking, and every boulevard and sidewalk;

***“Motor Vehicle” or “Vehicle”*** includes motor vehicles and vehicles within the meaning of the *Motor Vehicle Act*, R.S.B.C. 1996, Chapter 318 and any vehicle propelled by any power other than muscular power except aircraft and trains, but including off-road vehicles;

***“Non-continuous Sound”*** means any noises or sounds other than Continuous Sound and Construction Noise;

***“Owner”*** includes both an owner and occupier of a parcel of land;

***“Person”*** includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law;

***“Point of Reception”*** means a position that:

- (a) is within the property line of the real property occupied by the recipient of a noise or sound,
- (b) best represents the location at which the noise or sound, emanating from another property, is received and the resulting disturbance experienced;

***“Power Equipment”*** means any tool, equipment or machinery powered by an internal combustion engine or electronic motor that is used for construction, lawn, garden, building and property maintenance, and includes compressors, lawn mowers, hedge trimmers, line trimmers, edge trimmers, rototillers, pressure washers, planers, chain saws, grinders, carpet-cleaning equipment, chippers and leaf blowers;

***“Private Event”*** is any event that is not a Public Event;

***“Public Event”*** is any event that members of the general public are invited to attend;

***“Public Place”*** includes streets, highways, parks, public squares, public buildings, plazas, beaches, foreshore and all other land and buildings that are not private premises;

***“Special Event”*** means an event or activity of a temporary nature, which may include commercial activity for profit, or be organized by a non-profit society or individual, located on privately-owned lands within the Town of Qualicum Beach or on land controlled by the Town of Qualicum Beach, that produces or is capable of producing noise.

### **3. GENERAL REGULATIONS**

3.1 No person shall make or cause, or permit to be made or caused, any noise in or on a public or private place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity; or

3.1.1 exceeds the Sound Levels prescribed in this Bylaw;

3.2 No person being the owner, tenant or occupier of real property shall allow or permit such real property to be used so that noise or sound which occurs thereon or emanates therefrom, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.

- 3.3 No person shall keep or harbour any animal which, by its calls, cries or any other vocal noise, can be easily heard and unreasonably disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons not on the same premises as the animal.

#### **4. OBJECTIONABLE NOISES OR SOUNDS**

- 4.1 The following are declared by Council to be noises or sounds which are, in its opinion, objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and are hereby prohibited, and no person being the owner or occupant of any premises shall make, cause, allow, or permit:
- a) noise resulting from a gathering of two or more persons at any time, where one or more human voice is raised beyond the level of ordinary conversation;
  - b) the sound of a radio, television, player or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether recorded or live, whether amplified or not; or
  - c) the noise resulting from construction except during the hours and days during which section 4.5 permits a person to carry on construction;
  - d) the noise from the use of power equipment, except during the hours which section 4.6 permits a person to use power equipment, which can easily be heard by an individual or member of the public who is not on the same premises, notwithstanding that such noise or sound might not constitute a breach of any other provision of this bylaw.
- 4.2 The following are declared by Council to be noises or sounds which are, in its opinion, objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and are hereby prohibited and no person in a street, park, parking lot open to the public, or other similar place shall make, cause, allow, or permit:
- a) the use or operation of any motor vehicle, vehicle, bus or motorcycle in such a manner that the tires squeal or make a similar disturbing noise or sound;
  - b) the use of engine-retarding brakes;
  - c) the excessive revving of an engine; or
  - d) the use of any radio, tape player, compact disc player or other sound playback device or amplification equipment that emits a noise or sound which is audible beyond 25 metres (82 feet) in any direction from the vehicle.

4.3 No person shall cause, allow, or permit the playing or operating of any radio, stereophonic equipment, television receiving set or other instrument or apparatus for the production or amplification of sound, so that the noise or sound emitted is heard at a *Point of Reception* between the hours of 10:00 p.m. and 8:00 a.m. daily.

4.4 In addition to the noises or sounds described in sections 4.1, 4.2, or 4.3

a) any continuous sound that exceeds the following sound levels at the point of reception:

Sound Level

- (i) during the Day: 75 dBA
- (ii) during the Night: 60 dBA

b) any non-continuous sound that exceeds the following sound levels at the point of reception:

Sound Level

- (i) during the Day: 95 dBA
- (ii) during the Night: 75 dBA

c) any noised generated by the use of power equipment during permitted hours that exceeds a sound level of 85 dBA at the point of reception, is limited to a maximum use time period as follows:

Sound Level

- (i) during the Day 85 - 90 dBA is limited to 1 hour per day  
91 - 99 dBA is limited to 30 minutes per day  
100 dBA or over is prohibited

4.5 No *person* shall make, cause, or permit to be made any noise resulting from the construction, reconstruction, erection, alteration, repair, maintenance or demolition of any building, structure, land or thing during the following hours:

- a) before 7:00 a.m. and after 8:00 p.m. daily, excluding any Sunday or General Holidays; and
- b) before 9:00 a.m. and after 6:00 p.m. on any Sunday or General Holiday.

4.6 No *person* shall make, cause, or permit to be made any noise resulting from the use of power equipment during the following hours:

- a) before 7:00 a.m. and after 8:00 p.m. daily, excluding any Sunday or General Holiday; and

- b) before 9:00 a.m. and after 6:00 p.m. on any *Sunday* or General Holiday.

## 5. EXEMPTIONS

5.1 The emission of noise or sound in connection with the following are excluded from the general prohibitions, regulations and penalties contained in this Bylaw:

- a) police, fire, ambulance or any other emergency vehicles proceeding upon or engaged in an emergency;
- b) any act of maintenance or repair being carried out by employees or contractors of The Town of Qualicum Beach, the Ministry of Transportation and Infrastructure, or any Public or Private Utility;
- c) golf course mowing, between sunrise and sunset;
- d) any General Maintenance in a Residential Zone, as defined in "*Town of Qualicum Beach Land Use & Subdivision Bylaw No. 580*", between the hours of 7:00 a.m. and 8:00 p.m. daily, excluding any Sunday or General Holiday; and between 9:00 a.m. and after 6:00 p.m. on any Sunday or General Holiday;
- e) the operation of a public transportation system;
- f) sounding of a horn or other signalling device where such sounding is properly and necessarily used as a danger or warning signal;
- g) the operation of a public address system required under the Building Code, BC Fire Code or any bylaw of the Town of Qualicum Beach; and
- h) [Public/Private/Special Event] that has received prior approval from Council by resolution, which may include terms and conditions to minimize noise that would be liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.

## 6. SPECIAL EXEMPTIONS

6.1 A person may submit an application for a permit for special exemption from the application of provisions of this Bylaw (a "Special Exemption Permit") for the following:

- a) [Public/Private/Special] Events that are likely to create disturbing noise; or
- b) a construction project where the applicant shows that it is impossible or would cause an undue hardship to comply with this Bylaw.

6.2 Council hereby delegates all the powers, duties and functions to Authorized Persons for approval of applications for a Special Exemption Permit.

- 6.3 All applicants for a Special Exemption Permit must give notice to the owners or occupants of all neighbouring properties within 100 metres of the property where the event is to take place prior to submitting the application form.
- 6.4 An application for Special Exemption Permit must be submitted to the Town of Qualicum Beach within at least 10 business days before the Special Event.
- 6.5 Notwithstanding anything else in this Bylaw, upon receipt of an application in the form set out in Schedule A of this Bylaw, an Authorized Person may, by Special Exemption Permit, grant specific exemptions from the application of Section 5 of this Bylaw in respect of a particular event at a particular location, during the times and on the terms and conditions specified in the permit
- 6.6 An Authorized person may, at their discretion, further specify terms in the Special Exemption Permit that:
- a) limit the number of exemptions given to any person, organization, or property;
  - b) limit the type, location and duration of amplified sound during any exemption period;
  - c) exempt construction work from the provisions of Section 4.5 (a) or (b) and;
  - d) determine the terms of an exemption under this subsection for a specific period of time; or impose any other requirements or prohibitions that the Authorized Person deems necessary and advisable to minimize noise and sound that would be liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the vicinity.
- 6.7 If the Authorized Person considers any term or condition of a Special Event Permit to be breached, the permit shall forthwith become null and void.
- 6.8 There is no right of, nor reconsideration or appeal from, any decision of an Authorized Person with respect to a Special Exemption Permit.

## 7. RIGHT OF ENTRY

- 7.1 Pursuant to statutory powers including section 16 of the *Community Charter*, a Peace Officer or Bylaw Officer may enter, at all reasonable times and after taking reasonable steps to advise the owner or occupier, on any property to ascertain whether the requirements of this Bylaw are being met or the regulations contained in this Bylaw are being observed.

**8. SEVERANCE**

No provision of this Bylaw depends for its validity on the validity of any other provision.

**9. OFFENCE**

9.1 A person commits an offence and is subject to the penalties imposed by this Bylaw, the Town of Qualicum Beach Municipal Ticket Information Bylaw No. 626, as amended from time to time, and the *Offence Act* if that person:

- a) contravenes a provision of this Bylaw;
- b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or
- c) neglects or refrains from doing anything required by a provision of this Bylaw.

9.2 For greater certainty, an owner of property who refrains from stopping that owner's tenant from contravening this Bylaw commits an offence.

9.3 Each day an offence of a provision of this Bylaw occurs or continues, shall constitute a distinct and separate offence.

**10. PENALTIES**

10.1 In addition to other bylaw enforcement powers, enforcement of this Bylaw against a person may be by Municipal Ticket Information ("MTI") and if convicted, that person shall be liable to pay the full amount of the penalty and fine prescribed in the Town of Qualicum Beach Municipal Ticket Information Bylaw No. 626, as amended from time to time, to the Town of Qualicum Beach.

10.2 For greater certainty, an owner of property who permits his or her tenant to violate any provision of this Bylaw is in violation of this Bylaw.

10.3 If the penalty indicated on a MTI is not paid, and the Municipal Ticket is not disputed within fourteen (14) days of the date of service of MTI, the amount in full becomes due and payable to the Town of Qualicum Beach.

10.4 Any person who fails to pay the penalty indicated may have the amount transferred to a collection agent or be subject to collection through other legal processes.



10.5 Every person who contravenes any provision of this bylaw is considered to have committed an offence against this bylaw and is liable on summary conviction, to a fine of not more than Ten Thousand Dollars (\$10,000), and each day that such violation is caused, or allowed to continue, constitutes a separate offence

**11. REPEAL**

This Bylaw repeals the Town of Qualicum Beach Noise Control Bylaw No. 552, 1994 and all its amendments thereto.

READ A FIRST TIME this 5<sup>th</sup> day of December, 2016.

READ A SECOND TIME this 6<sup>th</sup> day of February, 2017.

READ A THIRD TIME this 6<sup>th</sup> day of February, 2017.

ADOPTED BY Town Council this 27<sup>th</sup> day of February, 2017.



Heather Svensen  
Corporate Administrator



Teunis Westbroek  
Mayor



**Schedule A - Application for Special Exemption Permit**

**Application for exemption from the provisions of  
Noise Control Bylaw**

I/We \_\_\_\_\_ of \_\_\_\_\_  
Name of Individual or Organization Mailing Address

Hereby make application for a permit exempting me/us from the provisions of the Noise Control Bylaw.

*Location for which the exemption is requested*

\_\_\_\_\_  
Street Address

1. Event: \_\_\_\_\_

2. Type of unlawful noise or sound (as described in Section 4 of the Noise Control Bylaw or otherwise)

3. Period for which the exemption is requested: Starting at \_\_\_\_\_ AM / PM on \_\_\_\_\_ Date  
Ending at \_\_\_\_\_ AM / PM on \_\_\_\_\_ Date

4. Will there be any amplified noise during the exemption period?  
 Yes, complete the following: Location: \_\_\_\_\_ Time Period Requested \_\_\_\_\_  
 No  indoors \_\_\_\_\_ AM / PM  
 outdoors \_\_\_\_\_ AM / PM

I/We have notified the owners or occupiers of the neighbouring properties that are likely to be affected by noise for which the exemption is requested and their names, addresses, signatures and comments have been recorded on the reverse side of this application.

\_\_\_\_\_  
Name Signature Date

**PERMIT**

Permit approved by Authorized Person on \_\_\_\_\_, 20\_\_ or

Permit denied by an Authorized person on \_\_\_\_\_, 20\_\_

Approved By: \_\_\_\_\_  
Name Signature Date

**Remarks & Conditions**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

